IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 22967 OF 2004

DATED: 23.02.2006

Between:

Sudhir Kumar petitioner

And

Labour Court – I, Hyderabad

Rep by its Presiding Officer and another Respondents

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THE HON'BLE SRI JUSTICE N.V.RAMANA

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WRIT PETITION NO. 22967 OF 2004

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ORAL ORDER:

The present writ petition is filed seeking a writ of Certiorari to call for the records relating to the award passed by the Labour Court-I, Hyderabad in I.D. No. 136 of 2002 and quash the same in so far as denying the backwages is concerned.

The petitioner herein is working as conductor in the respondent corporation. On 7.2.2002 while he was conducting the bus bearing No.AP 9Z 2157 a check was conducted and certain irregularities were noticed. Based on the report of the checking officials, a charge sheet dated
22-2-2002 was issued to which the petitioner submitted his explanation on 27.2.2002. Having not satisfied with the explanation offered by the petitioner, an inquiry was ordered and based upon the inquiry report, a show cause notice of removal from service dated 12.7.02 was issued to the petitioner. Upon considering the explanation of the petitioner, he was removed from service by order dated 29-7-2002. Aggrieved by the removal order, petitioner raised an Industrial Dispute in I.D. No. 136 of 2002 on the file of the Labour Court-I, Hyderabad.

The Labour Court having regard to the contentions raised by both the parties and the material documents held that for the alleged misconduct the respondent ought to have imposed minor penalty and removal from service is disproportionate and partly allowed the petition setting aside the removal order and ordering for reinstatement into service with continuity of service and attendant benefits but without
back-wages. Questioning the said order in so far as denying the
back-wages, the present writ petition is filed.

Heard learned counsel for petitioner, learned Standing Counsel for respondent corporation and perused the award under challenge.

The parameters and scope of judicial review of this Court under Article 226 of the Constitution of India to issue a writ of Certiorari are limited to—firstly to correct errors of jurisdiction when the inferior Court or Tribunal acts without jurisdiction or in excess or fails to exercise it, secondly correct errors of law apparent on the face of the record, and thirdly correct and interfere with the findings that are based on suspicion, conjectures or surmises or no reason. The law is well settled that this Court does not act as an appellate authority and reappraise the evidence while exercising certiorari jurisdiction. It is within these parameters, the impugned award of

the Labour Court, is to be examined.

The punishment imposed by the Authority and modified by the Labour Court is based on the evidence. Until and unless the writ petition shows any disproportionality in imposing the penalty or it shocks the conscious of the Court this Court cannot exercise its discretion or interfere with the quantum of penalty. In **DIVISIONAL CONTROLLER, KSRTC (NWKRTC) Vs. A.T.MANE** , the Apex Court held that once a domestic tribunal based on evidence comes to a particular conclusion, normally it is not open to the appellate tribunals and Courts to substitute their subjective opinion in the place of the one arrived at by the domestic tribunal. On the question of quantum of punishment, the Apex Court held as follows;

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> *"Coming to the question of quantum of punishment, one should bear in mind the fact that it is the amount of money misappropriated that becomes a primary factor for awarding punishment, on the contrary, it si the loss of confidence which is the primary factor to be taken into consideration."*

In the present case, cash and ticket irregularities and indiscipline was alleged against the petitioner and the Labour Court on appreciation of the material available on record disbelieved the version of the petitioner and observed that the petitioner has created a theory to justify his act of irresponsibility while on duty. It was also observed that "*the petitioner should not have acted irresponsibly being incharge of a passenger-bus and go away in annoyance, which resulted inconvenience to the passengers and also checking officials*". However, the Labour Court held that the punishment imposed on the workman is disproportionate and directed reinstatement without backwages. Thus, the Labour Court has confirmed the findings of enquiry and found petitioner guilty of the charges alleged against him, however, taking a lenient view reduced the punishment and directed reinstatement without backwages, which cannot be said to be illegal.

For the foregoing reasons, the petitioner has not made out any case for

interference of this Court in exercise of its certiorari jurisdiction under Article 226 of the Constitution of India. The writ petition fails and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs.

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N.V.RAMANA,J

23.02.2006

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